



RON CHAPMAN, MD, MPH  
Director & State Health Officer

State of California—Health and Human Services Agency  
California Department of Public Health



EDMUND G. BROWN JR.  
Governor

May 30, 2014

Jim Rossi, Owner  
B&R Farms  
5280 Fairview Rd  
Hollister, Ca 95023

Attention Mr. Rossi:

**ISSUANCE OF COMPLIANCE ORDER NO. 02-05-14R-002 FOR ARSENIC MCL  
EXCEEDANCE – B & R FARMS WATER SYSTEM (3500570)**

Enclosed is a Compliance Order issued to B & R Farms Water System for failure to comply with the primary maximum contaminant level (MCL) for arsenic as specified in Section 64431(a) of the California Code of Regulations. The water system exceeded the arsenic MCL of 0.010 mg/L with a running annual average arsenic concentration of 0.013 mg/L.

B & R Farms Water System will be billed at the Department's hourly rate (currently estimated at \$126.00) for the time spent on issuing this Compliance Order since this is an enforcement action for noncompliance with state regulations. If you have any questions regarding this matter, please contact Lora Lyons at (831) 655-6942 or me at (831) 655-6934.

Sincerely,

Jan R. Sweigert, P.E.  
District Engineer, Monterey District  
Drinking Water Field Operations Branch

**CERTIFIED MAIL No: 7008 1830 0004 5435 0585**

Enclosures:  
Compliance Order 02-05-14R-002  
Attachment A: Proof of Notification  
Attachment B: Instructions for Notification

cc: San Benito County Environmental Health Department

1 **Compliance Order No. 02-05-14R-002**

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4 **STATE OF CALIFORNIA**  
5 **DEPARTMENT OF PUBLIC HEALTH**  
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7  
8 **IN RE:** B & R FARMS  
9 Water System No. 3500570  
10

11 **TO:** Mr. Jim Rossi, Owner  
12 B & R Farms Water System  
13 5280 Fairview Road  
14 Hollister, CA 95023  
15

16  
17 **Date Issued:** May 30, 2014  
18

19 **COMPLIANCE ORDER FOR VIOLATION OF HEALTH AND SAFETY CODE**  
20 **SECTIONS 116555 (a)(1) AND (a)(3) AND TITLE 22, CALIFORNIA CODE OF**  
21 **REGULATIONS SECTION 64431**  
22

23  
24 Section 116655 of the California Health and Safety Code authorizes the issuance of an  
25 order for failure to comply with a requirement of California Safe Drinking Water Act  
26 (California Health and Safety Code, Division 104, Part 12, Chapter 4, commencing with  
27 Section 116270), or any permit, regulation, or standard issued thereunder.



1 The Division of Drinking Water and Environmental Management of the State of  
2 California Department of Public Health (Department) hereby issues a compliance order  
3 (Order) to the B & R Farms for failure to comply with Health and Safety Code Sections  
4 116555 (a)(1) and (a)(3) and Title 22, California Code of Regulations, Section 64431.  
5

### 6 7 **STATEMENT OF FACTS**

8 B & R Farms (B & R) is a nontransient-noncommunity water system serving an  
9 estimated population of 25 through 14 service connections that include five duplexes,  
10 two single family dwellings, and the farm's cutting and packing sheds. The source of  
11 supply for B & R is one groundwater well, identified as Well 01 – Raw (source number  
12 3500570-001).  
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15 Section 64431, Title 22 of the California Code of Regulations requires that  
16 nontransient-noncommunity water systems deliver water to all customers that complies  
17 with the arsenic maximum contaminant level (MCL) of 0.010 milligrams per liter (mg/L).  
18

19  
20 Section 64432 (i) Title 22 of the California Code of Regulations requires that  
21 compliance with the arsenic MCL shall be determined by a running annual average  
22 (RAA). If a system takes more than one sample in a quarter, the average of all the  
23 results for that quarter shall be used when calculating the RAA. If a system fails to  
24 complete four consecutive quarters of monitoring, the RAA shall be based on an  
25 average of the available data.  
26  
27





By email dated June 26, 2013, after a water sample from Well 01 collected on May 20, 2013, showed an arsenic result of 0.013 mg/L, the water system was directed to collect a confirmation sample and to begin quarterly arsenic monitoring if the average of the two samples exceeded the MCL. Quarterly arsenic analysis results for samples collected from Well 01 are shown in the following table.

Arsenic Monitoring Results (MCL = 0.010 mg/L)			
Quarter	Sample Date	Results (mg/L)	RAA (mg/L)
2 <sup>nd</sup> - 2013	5/20/2013	0.013	0.011 *
	6/27/2013	0.0097	
3 <sup>rd</sup> - 2013	No Sample		
4 <sup>th</sup> - 2013	11/17/2013	0.012	0.0165 *
1 <sup>st</sup> 2014	2/23/2014	0.017	
	3/31/2014	0.016	<b>0.013</b>

\* Average of quarterly monitoring results used to determine RAA

The four quarter RAA from Well 01 following completion of the first quarter of 2014 is 0.013 mg/L. Therefore, the water from Well 01 exceeds the arsenic MCL of 0.010 mg/L.

## AUTHORITIES

**Health and Safety Code Section 116555 states in relevant part:**

### **116555. Operational Requirements.**

(a) Any person who owns a public water system shall ensure that the system does all of the following:



1 (1) Complies with primary and secondary drinking water standards.

2 (3) Provides a reliable and adequate supply of pure, wholesome, healthful, and  
3 potable water.  
4

5  
6 **Health and Safety Code Section 116655 states in relevant part:**

7 **116655. Orders.**

8 (a) Whenever the Department determines that any person has violated or is violating  
9 this chapter, or any permit, regulation, or standard issued or adopted pursuant to this  
10 chapter, the director may issue an order doing any of the following:  
11

12 (1) Directing compliance forthwith.

13 (2) Directing compliance in accordance with a time schedule set by the  
14 department.

15 (3) Directing that appropriate preventive action be taken in the case of a  
16 threatened violation.

17 (b) An order issued pursuant to this section may include, but shall not be limited to, any  
18 or all of the following requirements:  
19

20 (1) That the existing plant, works, or system be repaired, altered, or added to.

21 (2) That purification or treatment works be installed.

22 (3) That the source of the water supply be changed.

23 (4) That no additional service connection be made to B & R.

24 (5) That the water supply, the plant, or B & R be monitored.

25 (6) That a report on the condition and operation of the plant, works, system, or  
26 water supply be submitted to the department.  
27



**California Code of Regulations, Title 22, section 64431 (a) states in relevant part:**

**64431. Maximum Contaminant Levels--Inorganic Chemicals.**

(a) Public water systems shall comply with the primary MCLs in Table 64431-A as specified in this article.

<i><b>Chemical</b></i>	<i><b>Maximum Contaminant Level, mg/L</b></i>
Arsenic	0.010

**DETERMINATIONS**

Based on the above-described Statement of Facts, the Department determines that B & R has violated the following:

1. Health and Safety Code, Section 116555 (a)(1): Specifically, B & R has failed to comply with primary and secondary drinking water standards.
2. Health and Safety Code, Section 116555 (a)(3): Specifically, B & R has failed to provide a reliable and adequate supply of pure, wholesome, healthful and potable water.
3. California Code of Regulations, Title 22 Section 64431: Specifically, B & R has failed to comply with the primary MCL of 0.010 mg/L.



**ORDER**

Pursuant to Section 116655 of the California Health and Safety Code, the Department and its Director hereby orders B & R to do the following:

**Directive 1: As soon as possible**, B & R shall comply with California Health and Safety Code Sections 116555(a)(1) and (a)(3) and California Code of Regulations Section 64431 in all future monitoring periods.

**Directive 2: Effective immediately**, B & R shall provide quarterly public notification of its failure to comply with the arsenic MCL by RAA during any quarter that the arsenic concentrations exceed the MCL by RAA. The notification procedures and format are provided in Attachment B. The draft notification must be edited by B & R and approved by the Department prior to distribution. The first quarterly public notification must be completed by **June 30, 2014**. Proof of public notification shall be provided to the Department following each notification by the 10<sup>th</sup> day of the month following notification, using the form provided as Attachment A.

**Directive 3: Effective immediately**, B & R shall continue to collect quarterly samples from Well 01 for arsenic analysis. The analytical results shall be electronically reported to the Department using the source code 3500570-001





1 no later than the 10<sup>th</sup> day following the month in which the samples were  
2 analyzed.  
3

4  
5 **Directive 4: By July 31, 2014**, B & R shall submit to the Department for review  
6 and approval, an action plan and compliance schedule for improvements to the  
7 water system to correct the arsenic water quality problem and eliminate the  
8 delivery of water to consumers that does not meet the primary drinking water  
9 standards.  
10

11  
12 **Directive 5: By July 31, 2016**, B & R shall complete all improvements in the  
13 proposed project submitted pursuant to Directive 4 above in accordance with  
14 the compliance schedule to be reviewed and approved by the Department.  
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16 **Directive 6: By June 30, 2014**, B & R shall submit a written response to the  
17 Department, indicating its willingness to comply with the directives of this Order.  
18  
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20 The Department reserves the right to make such modification to this Order as it may  
21 deem necessary to protect public health and safety. Such modifications may be issued  
22 as amendments to this Order and shall be effective upon issuance.  
23

24 Nothing in this Order relieves B & R of its obligation to meet the requirements of the  
25 California Safe Drinking Water Act (Health and Safety Code, Division 104, Part 12,  
26  
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Chapter 4, commencing with Section 116270), or any permit, regulation, standard or order issued thereunder.

All submittals required by this Order shall be addressed to:

Jan Sweigert, P.E., Monterey District Engineer  
California Department of Public Health,  
Drinking Water Field Operations Branch  
1 Lower Ragsdale Dr., Bldg. 1, Suite 120  
Monterey, CA 93940

#### **PARTIES BOUND**

This Order shall apply to and be binding upon B & R, its officers, directors, agents, employees, contractors, successors and assignees.

#### **SEVERABILITY**

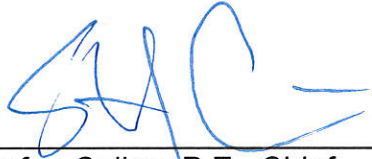
The directives of this Order are severable, and B & R shall comply with each and every provision thereof notwithstanding the effectiveness of any provision.

#### **FURTHER ENFORCEMENT ACTION**

Division 104, Part 12, Chapter 4, (commencing with section 116270) of the H&S Code authorizes the Department to: issue a citation with assessment of penalties for failure to comply with any order, in an amount not to exceed one thousand dollars (\$1,000) per day for each day the violation continues; take action to suspend or revoke a permit that has been issued to a public water system if B & R has failed to comply with an

1 order of the Department; and petition the superior court to take various enforcement  
2 actions against a public water system that has failed to comply with an order of the  
3 Department. The Department does not waive any further enforcement action by  
4 issuance of this Order.  
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6  
7 The State of California shall not be liable for any injuries or damages to persons or  
8 property resulting from acts or omissions by B & R, its employees, agents or  
9 contractors in carrying out activities pursuant to this Order, nor shall the State of  
10 California be held as a party to any contract entered into by B & R or its agents in  
11 carrying out activities pursuant to the Order.  
12

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16 Stefan Cajina, P.E., Chief  
17 North Coastal Region  
18 Drinking Water Program

May 30, 2014  
Date

19 CERTIFIED MAIL # 7008 1830 0004 5435 0585

20 **Attachments:**

21 Attachment A: Proof of Notification Form  
22 Attachment B: Public Notification Method & Notice  
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**PROOF OF NOTIFICATION****B & R Farms****Water System # 3500570****Certification**

As required by Section 116450 of the California Health and Safety Code, I notified the users of the water supplied by the B & R Farms Water System of the violation of Title 22, California Code of Regulations (CCR) for the compliance period of April 1, 2013 to March 31, 2014. I complied with Title 22, CCR Public Notification Requirements as indicated below:

<u>Required Action</u>	<u>Date Completed</u>
Public Notification – Mail or Hand Delivery	
Public Notification – Posting in Public Places	

\_\_\_\_\_  
Signature of Water System Representative\_\_\_\_\_  
Date

\*\*\* Attach a copy of the notice delivered and posted by the water system. \*\*\*

**THIS FORM MUST BE COMPLETED AND RETURNED TO THE DEPARTMENT**

**Disclosure:** Be advised that Section 116725 and 116730 of the California Health and Safety Code states that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached order may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in county jail not to exceed one year, or by both the fine and imprisonment.



## Instructions for Tier 2 Arsenic MCL Notice Template

### Template Attached

Since exceeding the arsenic maximum contaminant level (MCL) is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [California Code of Regulations Title 22, Chapter 15, Section 64463.4(b)]. **Each water system required to give public notice must submit the notice to the Department for approval prior to distribution or posting, unless otherwise directed by the Department [64463(b)].**

### Notification Methods

You must use the methods summarized in the table below to deliver the notice to consumers. If you mail, post, or hand deliver, print your notice on letterhead, if available.

<i>If You Are a...</i>	<i>You Must Notify Consumers by...</i>	<i>...and By One or More of the Following Methods to Reach Persons Not Likely to be Reached by the Previous Method...</i>
Community Water System [64463.4(c)(1)]	Mail or direct delivery <sup>(a)</sup>	Publication in a local newspaper
		Posting in public places served by the water system or on the Internet <sup>(b)</sup>
		Delivery to community organizations
Non-Community Water System [64463.4(c)(2)]	Posting in conspicuous locations throughout the area served by the water system <sup>(b)</sup>	Publication in a local newspaper or newsletter distributed to customers
		Email message to employees or students
		Posting on the Internet or intranet <sup>(b)</sup>
		Direct delivery to each customer

(a) Notice must be distributed to each customer receiving a bill including those that provide their drinking water to others (e.g., schools or school systems, apartment building owners, or large private employers), and other service connections to which water is delivered by the water system.

(b) Notice must be posted in place for as long as the violation or occurrence continues, but in no case less than seven days.

The notice attached is appropriate for the methods described above. However, you may wish to modify it before using it for posting. If you do, you must still include all the required elements and leave the health effects and notification language in italics unchanged. This language is mandatory [64465].

### Multilingual Requirement

Spanish. Each public notice must contain information in Spanish regarding (1) the importance of the notice or (2) contain a telephone number or address where Spanish-



speaking residents may contact the water system to obtain a translated copy of the public notice or assistance in Spanish.

*Non-English Speaking Groups Other than Spanish-Speaking.* For each group that exceeds 1,000 residents or 10% of the residents in the community served, whichever is less, the public notice must (1) contain information in the appropriate language(s) regarding the importance of the notice or (2) contain a telephone number or address where such residents may contact the water system to obtain a translated copy of the notice or assistance in the appropriate language.

### **Population Served**

Make sure it is clear who is served by your water system -- you may need to list the areas you serve.

### **Corrective Action**

In your notice, describe corrective actions you are taking. Do not use overly technical terminology when describing treatment methods. Listed below are some steps commonly taken by water systems with chemical or radiological violations. Use one or more of the following actions, if appropriate, or develop your own:

- "We are working with [local/state agency] to evaluate the water supply and researching options to correct the problem. These options may include treating the water to remove arsenic or connecting to [system]'s water supply."
- "We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well."
- "We will increase the frequency at which we test the water for arsenic."
- "We have since taken samples at this location and had them tested. They show that we meet the standards."

### **After Issuing the Notice**

Send a copy of each type of notice and a certification that you have met all the public notice requirements to the Department within ten days after you issue the notice [64469(d)]. You should also issue a follow-up notice in addition to meeting any repeat notice requirements the Department sets.

It is recommended that you notify health professionals in the area of the violation. People may call their doctors with questions about how the violation may affect their health, and the doctors should have the information they need to respond appropriately.

It is a good idea to issue a "problem corrected" notice when the violation is resolved.

**IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER**

Este informe contiene información muy importante sobre su agua potable.

Tradúzcalo o hable con alguien que lo entienda bien.

**B & R Farms Water System Has Levels of Arsenic  
Above the Drinking Water Standard**

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what you should do, what happened, and what we are doing to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Water sample results received during the second and fourth quarters of 2013 and the first quarter of 2014 showed arsenic levels ranging from 0.011 mg/L to 0.017 mg/L. Compliance is determined by a running annual average (RAA). The four quarter RAA for the first quarter 2014 was 0.013 mg/L for arsenic. This is above the U.S. EPA standard, or maximum contaminant level (MCL) of 0.010 milligrams per liter.

**What should I do?**

- **You do not need to use an alternative water supply (e.g., bottled water).**
- This is not an emergency. If it had been, you would have been notified immediately. However, *some people who drink water containing arsenic in excess of the MCL over many years may experience skin damage or circulatory system problems, and may have an increased risk to getting cancer.*
- If you have other health issues concerning the consumption of this water, you may wish to consult your doctor.

**What happened? What is being done?**

**[Describe corrective action]**. We anticipate resolving the problem within **[estimated time frame]**.

For more information, please contact **[name of contact]** at **[phone number]** or **[mailing address]**.

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this public notice in a public place or distributing copies by hand or mail.*

**Secondary Notification Requirements**

Upon receipt of notification from a person operating a public water system, the following notification must be given within 10 days [Health and Safety Code Section 116450(g)]:

- **SCHOOLS:** Must notify school employees, students, and parents (if the students are minors).
- **RESIDENTIAL RENTAL PROPERTY OWNERS OR MANAGERS** (including nursing homes and care facilities): Must notify tenants.
- **BUSINESS PROPERTY OWNERS, MANAGERS, OR OPERATORS:** Must notify employees of businesses located on the property.

This notice is being sent to you by **B & R Farms**.

State Water System ID#: **3500570**. Date distributed: \_\_\_\_\_.

System Representative Name & Title: \_\_\_\_\_

System Representative Signature: \_\_\_\_\_